

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA)	
)	
)	
VS.)	SA-14-CR-835-XR
)	
HERNAN RAMIREZ)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On October 4, 2016, the Court held a bench trial in the above-captioned cause. Defendant **HERNAN RAMIREZ** was present and represented by counsel. After questioning by the Court, Defendant indicated that he understood his rights and knowingly waived his right to trial by jury. In addition, the Defendant previously signed a waiver wherein he waived his right to trial by a jury (docket no. 76).

The Defendant and the Government filed a stipulation of facts and admissibility of evidence. The Court accepted the stipulations and admitted Exhibits 1 through 13. After reviewing the evidence, the Court finds that the Defendant is guilty beyond a reasonable doubt of violating 18 U.S.C. § 2252A(a)(2) and (b) (distribution of child pornography and receipt of child pornography) and 18 U.S.C. § 2252A(a)(5)(B) (possession of child pornography). In accordance with Federal Rule of Criminal Procedure 23(c), the Court enters these Findings of Fact and Conclusions of Law with respect to the Defendant.

The Defendant was charged in an indictment with distribution of child pornography, receipt of child pornography, and possession of child pornography. (Docket no. 3). Count One

of the indictment alleges that on or about November 1, 2013, the Defendant knowingly distributed child pornography. Count Two of the indictment alleges that on or about November 22, 2013, the Defendant knowingly distributed child pornography. Count Three of the indictment alleges that on or about November 24, 2013, the Defendant knowingly received child pornography. Count Four of the indictment alleges that on or about February 4, 2014, the Defendant knowingly distributed child pornography. Count Five of the indictment alleges that on or about April 10, 2014, the Defendant knowingly received child pornography. Count Six of the indictment alleges that on or about July 30, 2014, the Defendant knowingly possessed an ASUS laptop computer, which contained an image of child pornography. Count Seven of the indictment alleges that on or about July 30, 2014, the Defendant knowingly possessed a Toshiba external USB hard drive, which contained an image of child pornography. Count Eight of the indictment alleges that on or about July 30, 2014, the Defendant knowingly possessed a Samsung SM-G900T Galaxy S5 cellular phone, which contained an image of child pornography. The Indictment also sought forfeiture of the ASUS laptop computer, the Toshiba external USB hard drive, and the Samsung SM-G900T Galaxy S5 cellular phone.

The Court makes the following findings of fact:

Distribution (Counts One, Two and Four)

1. On November 1, 2013¹, November 22, 2013², and February 4, 2014³, the defendant knowingly distributed items of child pornography, as alleged in the indictment.

¹ Stipulation No. 1

² Stipulation No. 2

³ Stipulation No. 4

2. The items of child pornography had been transported in or affecting interstate or foreign commerce by any means, including by computer.⁴
3. When the defendant distributed the items, the defendant knew the items contained child pornography.⁵

Receipt (Counts Three and Five)

4. On November 24, 2013⁶ and April 10, 2014⁷, the defendant knowingly received items of child pornography, as alleged in the indictment.
5. The items of child pornography had been transported in or affecting interstate or foreign commerce by any means, including by computer.⁸
6. When the defendant received the items, the defendant knew the items contained child pornography.⁹

Possession (Counts Six, Seven and Eight)

7. On or about July 30, 2014¹⁰, the defendant knowingly possessed items that contained images of child pornography, as alleged in the indictment.
8. The Galaxy S5 cellular phone, ASUS laptop, and Toshiba external USB hard drive were all manufactured in China and were shipped and transported in interstate or foreign commerce.¹¹

⁴ Stipulation No. 6

⁵ Exhibits 1a, 2a, 7a, 11a, 11b; Stipulation Nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11

⁶ Stipulation No. 3

⁷ Stipulation No. 5

⁸ Stipulation No. 6

⁹ Exhibits 1a, 2a, 7a, 11a, 11b; Stipulation Nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11

¹⁰ Stipulation No. 7 (Galaxy cell phone), No. 9 (ASUS laptop), and 11 (external USB hard drive)

¹¹ Stipulation No. 12

9. When the defendant possessed the items above, the defendant knew the items contained child pornography.¹²

Conclusions of Law

The Indictment charges Defendant with violating 18 U.S.C. § 2252A(a)(2) and (b) [distribution of child pornography and receipt of child pornography] and 18 U.S.C. § 2252A(a)(5)(B) [possession of child pornography]. The Government has established all the elements of these statutes beyond a reasonable doubt. Accordingly, the Court finds the Defendant Guilty of Counts One through Eight.

SIGNED this 4th day of October, 2016.

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', with a stylized flourish at the end.

XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE

¹² Exhibits 1a, 2a, 7a, 11a, 11b; Stipulation Nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11